No. 603

Supreme Court of the United States

OCTOBER TERM, 1945.

FIRST IOWA HYDRO-ELECTRIC COOPERATIVE, *Petitioner*,

v.

FEDERAL POWER COMMISSION, *Respondent*,

STATE OF IOWA, *Intervenor*.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia.

REPLY BRIEF FOR FIRST IOWA HYDRO-ELECTRIC COOPERATIVE.

GEORGE B. PORTER,
ANDREW G. HALEY,
CHARLES E. THOMPSON,
Counsel for First Iowa Hydro-Electric Cooperative, Petitioner.

DAVID W. ROBINSON, JR.,
Columbia, South Carolina.

RALPH U. THOMPSON,
Muscatine, Iowa.

JOHN CONNOLLY, JR.,
Des Moines, Iowa.

Of Counsel for Petitioner.

March 6, 1946.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

INDEX.

	Page
Argument	1
I. Comity	1
II. Federal and State Cooperation v. Joint Federal and State Control	3
III. The State Highway Laws	9
Conclusion	11
Appendix A	12
Appendix B	14
Appendix C	15
Appendix D	16

CITATIONS.

CASES:

Cloverleaf Butter Co. v. Patterson, 315 U. S. 148	3
Gibbons v. Ogden, 9 Wheat. 1	4
Henry Ford and Son, Inc., v. Little Falls Fibre Co., et al. 280 U. S. 369	10
Hillsborough v. Cromwell, No. 305, this Term, decided January 28, 1946	2
Hines v. Davidowitz, 312 U. S. 52	3
Jones v. Morehead, 1 Wall. 155	5
Markham v. Allen, No. 60, this Term, decided January 7, 1946	3
Meredith v. Winter Haven, 320 U. S. 228	3
Missouri v. Union Electric Light & Power Co., 42 F. (2d) 692	10
Northern Pacific Ry. Co. v. Paine, 119 U. S. 584	5
Northwest Airlines v. Minnesota, 322 U. S. 292	4
Putnam v. Day, 22 Wall. 60	5
State of New Jersey v. Sargent, 269 U. S. 328	3
United States v. Appalachian Power Co., 311 U. S. 377	4
United States v. Bellingham Bay Boom Co., 176 U. S. 211	3
United States v. West Virginia, 295 U. S. 463	8, 9

STATUTES: Page

Federal Power Act (49 Stat. 838, 16 U. S. C. §791a et seq.)

Section 4(e) 4, 6
Section 4(f) 4
Section 6 8
Section 7(a) 4
Section 9(b) 2, 8, 10, 11
Section 10(e) 6
Section 10(e) 4
Section 13 7
Section 14 4
Section 19 4
Section 20 4
Section 21 10
Section 23(b) 5, 9
Section 27 4
Section 313(b) 2

Iowa Code of 1939, Chapter 363

Section 7767 5
Section 7771 5
Section 7776 6
Section 7792 7
Section 7793 8
Section 7796 . . . . . 9, 10

Iowa Code of 1939, Chapter 364

Section 7797 12
Section 7798 12
Section 7799 13
Section 7800 13
Section 7801 14
Section 7802 14

Supreme Court of the United States

OCTOBER TERM, 1945.

No. 603.

FIRST IOWA HYDRO-ELECTRIC COOPERATIVE, *Petitioner*,

v.

FEDERAL POWER COMMISSION, *Respondent*,
STATE OF IOWA, *Intervenor*.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia.

REPLY BRIEF FOR FIRST IOWA HYDRO-ELECTRIC COOPERATIVE.

The presentation of some of the issues in the briefs for the Federal Power Commission and the State of Iowa lead the Petitioner to submit this reply.

ARGUMENT.

I.

Comity.

The Federal Power Commission argues that the refusal of the court below to pass upon the applicability and constitutionality of Chapter 363 of the Iowa Code was an appropriate observance of the well established principle of

comity.[1] The principle relied upon is expressed in *Hillsborough* v. *Cromwell*, No. 305, this Term, decided January 28, 1946:

> "That where a Federal constitutional question turns on the interpretation of local law and the local law is in doubt, the proper procedure is for the Federal Court to hold the case until a definite determination of the local law can be made by the State Court."

The cases relied on to sustain this position[2] have generally arisen where a state administrative body made a ruling which a party considered a violation of a federal constitutional right. Without following an available review procedure in the state court the aggrieved party has sued in the District Court of the United States usually under the Federal Declaratory Judgment Act.

Here Petitioner has applied to the Federal Power Commission under a federal statute for a license which it must have in order to construct its proposed project. The application was denied because the Commission interpreted Section 9(b) of the Federal Power Act as requiring compliance with Chapter 363 of the Iowa Code (R. 13, 14). On review under Section 313(b) of the Federal Power Act the question for the Court of Appeals was whether a proper construction of the Federal Power Act required compliance with the Iowa law. The rule of comity does not require that federal courts submit the construction of a federal statute to state courts.

The construction of the Congressional intent is now before this Court. The question is whether the Federal Power

---

[1] Respondent's Brief, pp. 24-38. In its opinion and in the court below the Commission thought that review under Section 313(b) was appropriate to obtain a decision on the issue of the constitutionality and applicability of the Iowa Statute (R. 13, 48; Resp. Br. 9) and that the court should have decided that issue (Resp. Br. 10). The argument of the Intervenor (Br. 29, 31) treats the issue as the Petitioner's failure to exhaust its administrative remedy. Perhaps that is the position of the Court of Appeals (R. 44).

[2] Respondent's Brief, p. 29.

Act vested in the Commission the sole responsibility for licensing projects in navigable waters of the United States. Cf. *Hines* v. *Davidowitz*, 312 U. S. 52; *Cloverleaf Butter Co.* v. *Patterson*, 315 U. S. 148.

As an incident to this review under the Federal Power Act it is appropriate for this Court to interpret the State law.[3] *United States* v. *Bellingham Bay Boom Co.*, 176 U. S. 211; Cf. *Meredith* v. *Winter Haven*, 320 U. S. 228; *Markham* v. *Allen*, No. 60, this Term, decided January 7, 1946.

II.

Federal and State Cooperation.
v.
Joint Federal and State Control.

Petitioner and Respondent have contended in their respective briefs[4] that, by virtue of the provisions of the Federal Power Act, Congress has assumed complete control over power projects located in navigable waters of the United States to the exclusion of state control. However, the State of Iowa is so insistent that the Federal Power Act "contemplates a dual system of control by both the State and the Federal Government,"[5] and indicates "clearly that Congress did not intend to preempt and take over the entire field"[6] that a further comment on the question seems appropriate.

The provisions of Part I of the Federal Power Act clearly show that it was the purpose of Congress to take complete jurisdiction over navigable waters of the United States.[7]

The decisions of this Court sustain the broad scope and purpose of the Federal Power Act. *State of New Jersey* v.

---

[3] See Petitioner's Brief, pp. 43-47.

[4] Petitioner's Brief, pp. 13-52; Respondent's Brief, pp. 30-58.

[5] Intervenor's Brief, p. 19; cf. pp. 7-8.

[6] Id. at p. 17.

[7] See Petitioner's Brief, pp. 13-27, and Respondent's Brief, pp. 37-57.

Sargent, 269 U. S. 328 377; *United States* v. *Appalachian Power Co.*, 311 U. S. 377. In his concurring opinion in *Northwest Airlines* v. *Minnesota*, 322 U. S. 292, Mr. Justice Jackson indicates the national and exclusive character of the control of navigable waters. At page 303, he said: "Students of our legal evolution know how this Court interpreted the commerce clause of the Constitution to lift navigable waters of the United States out of local controls and into the domain of federal control. *Gibbons* v. *Ogden*, 9 Wheat. 1, to *United States* v. *Appalachian Power Co.*, 311 U. S. 377."

Consistent, however, with the necessity for undivided control over the determination as to the place where a power project is to be located, the plans therefor, and the construction, maintenance and operation of the project, Congress provided in the Federal Power Act the means for considering every legitimate interest of the States: Sec. 4(c) provides for cooperation with the States in the investigation of the water resources of any region; Sec. 4(f) provides for notice to the State of an application for a preliminary permit; Sec. 7(a) provides that the Commission shall give preference to applications by States for licenses; Sec. 10(e) provides exemptions for State licensees under the Act; Sec. 14 provides that the States may take over licensed projects at any time upon payment of just compensation; Secs. 19 and 20 provide for State regulation of rates; and Sec. 27 "saves" State laws dealing with irrigation, municipal and other uses of waters. The foregoing Sections of the Federal Power Act were cited by the court below (R. 47) in support of its statement that "the Act contemplates a dual system of control" by the State and the Federal Government (R. 46)[8]. The identical Sections are also mentioned by the State of Iowa[8] in support of the same proposition. These Sections support the conclusion that nowhere in the Federal Power Act did Congress provide for joint State and Federal *control* over the construc-

[8] Intervenor's Brief, p. 19.

tion, maintenance and operation of power projects on navigable streams of the United States.

The State of Iowa contended in its Petition to Intervene in the court below that the construction of the project proposed by Petitioner was prohibited by State law (Chapter 363 of the Iowa Code) (R. 38). In the absence of an interpretation of Chapter 363 of the Iowa Code by the Courts of that State, it would seem that the State is bound by its pleading.[9] In any event, the State law is clear to the effect that the project proposed by petitioner cannot be licensed by the State, by reason of the prohibition against diversion of water without returning it to the nearest practicable place. The water is not to be returned to the stream. (Section 7771, Chapter 363, Iowa Code, 1939). The State has, however, attempted to retreat from its position[10] and alleges in its brief before this Court that the Executive Council of the State may see fit to grant a permit to petitioner upon appropriate application being made. However, the conflict between other provisions of the State power act and the Federal Power Act strikingly demonstrate why, in any event, the two Acts cannot have valid application to the same project. There is set forth below in parallel columns the provisions of Chapter 363 of the Iowa Code which are in conflict with provisions of the Federal Power Act.

Federal Power Act	*Chapter 363, Iowa Code, 1939*
Sec. 23(b)	§ 7767
"It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or	*"Prohibition—permit.* No dam shall be constructed, maintained, or operated in this state in any navigable or meandered stream for any purpose, or in any other stream for manufacturing

[9] *Cf. Northern Pacific Ry. Co.* v. *Paine*, 119 U. S. 584; *Putnam* v. *Day*, 22 Wall. 60; *Jones* v. *Morehead*, 1 Wall. 155.

[10] Intervenor's Brief, pp. 18, 29, 33, 35.

Federal Power Act	*Chapter 363, Iowa Code, 1939*

other works incidental thereto across, along, or in any of the navigable waters of the United States, or upon any part of the public lands or reservations of the United States (including the Territories), or utilize the surplus water or water power from any Government dam, except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this Act. * * *"

Sec. 4(c)

"* * * *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War."

Sec. 10(c)

"That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals

or power purposes, nor shall any water be taken from such streams for industrial purposes, unless a permit has been granted by the executive council to the person, firm, corporation, or municipality constructing, maintaining, or operating the same."

§ 7776

"*Construction and operation.* The executive council shall investigate methods of construction, reconstruction, operation, maintenance, and equipment of dams, so as to determine the best methods to conserve and protect as far as possible all public and

Federal Power Act

and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health, and property."

Sec. 13

"That the licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, * * * The periods for the commencement of construction may be extended once but not longer than two additional years and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with the public interests. In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to

Chapter 363, Iowa Code, 1939

riparian rights in the waters of the state and so as to protect the life, health, and property of the general public; and the method of construction, operation, maintenance, and equipment of any and all dams in such waters shall be subject to the approval of the executive council."

§ 7792

"*Revocation or forfeiture of permit.* If the person to whom a permit is issued under the provisions of this chapter does not begin the construction or the improvement of the dam or raceway within one year from the date of the granting of the permit, his permit may be revoked by the executive council, and if any permit holder does not finish and have in operation the plant for which the dam is constructed within three years after the granting of the permit, unless for good cause shown the council has extended the time for completion, such permit shall be forfeited."

Federal Power Act	*Chapter 363, Iowa Code, 1939*

such project works or part thereof, be terminated upon written order of the commission."

Sec 6	§ 7793
"Licenses under this Part shall be issued for a period not exceeding fifty years. Each such license shall be conditioned upon acceptance by the licensee of all the terms and conditions of this Act and such further conditions, if any, as the Commission shall prescribe in conformity with the Act, which said terms and conditions and the acceptance thereof shall be expressed in said license. Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this Act, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice."	"*Legislative control.* No permit granted or rights acquired hereunder shall be perpetual, but they shall be subject to restriction, cancellation, and regulation by legislative action, and subject to all the provisions of this chapter."

United States v. *West Virginia*, 295 U. S. 463, is the only case in which this Court had occasion to refer to Section 9(b) of the Federal Power Act. That case is considered in the briefs of all parties to this proceeding.[11] The complaint in that case was filed in this Court on January 14, 1935, the case was argued on May 2, 1935, and decided on May 20,

[11] Respondent's Brief, pp. 54-55; Intervenor's Brief, pp. 12, 21, 30, 36-37; Petitioner's Brief, pp. 38-42.

1935. The Federal Water Power Act of 1920 was amended by the Act of August 26, 1935, and became the Federal Power Act. Section 23 of the Act was amended to require that when a dam was to be constructed upon a non-navigable water of the United States a declaration of intention must be filed with the Federal Power Commission. Prior to the Act of August 26, 1935, the filing of a declaration of intention to construct such a project was discretionary.[12] Section 23(b) now is all inclusive and clearly delineates the respective spheres of jurisdiction and control by the states and the federal government in so far as the licensing of power projects is concerned. State water power acts can have valid application only where the proposed construction of a power project is not upon navigable waters of the United States, and where the interests of interstate and foreign commerce are not affected.

III.

The State Highway Laws.

Section 7796 of Chapter 363 of the Iowa Code provides:

> "Whenever the erection of any such dam will affect highways or state-owned lands, the applicant shall as a condition precedent secure a permit from the board, commission, or other official body charged with jurisdiction over and control of said highways or state-owned lands."

Petitioner has discussed this provision of Chapter 363 in its main brief at page 43. The Respondent in its brief at page 27 (footnote 13) suggests to this Court alternate

---

[12] In the *West Virginia case*, the New-Kanawha Power Company had obtained a license from the Public Service Commission of West Virginia to construct a dam on the New River. It had not filed a declaration of intention under Section 23 of the Federal Power Act [illegible] there had been no determination as to navigability of the New River. There are set forth as Appendices B and C to this brief excerpts from the Committee Reports to the Senate and House regarding Section 23 of the Power Act.

grounds for rejecting the view of the court below that "the Commission's order must stand" for the "reason alone" that "nothing appears in the record to excuse petitioner's failure to comply with Section 7796" (R. 57). As additional reasons for its contention that Section 9(b) of the Federal Power Act does not require compliance with Section 7796 of the Iowa Code, Petitioner submits: (1) That Section 9(b) does not apply to that type of law—it requires compliance only with State laws "with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power * * *"; (2) Were Petitioner to secure the license which it is seeking from the Federal Power Commission, it could, as to the State highways involved, proceed under the provisions of Chapter 364 of the Iowa Code, which is set forth fully as Appendix A to this brief, and which would permit petitioner to make whatever use may be necessary of state highways so long as, at its own expense, it put such highways in good repair and condition for the safe and convenient use of the public; (3) If necessary, petitioner may make use of the eminent domain provisions of Section 21 of the Federal Act.[13]

---

[13] *Missouri* v. *Union Electric Light & Power Co.*, 42 F. (2d) 692; Cf. *Henry Ford and Son, Inc.* v. *Little Falls Fibre Co., et al.*, 280 U. S. 369, 378-379.

CONCLUSION.

Petitioner reiterates that the sole question before this Court in this case is whether Chapter 363 of the Iowa Code is such a law as must be complied with under the provisions of Section 9(b) of the Federal Power Act in the light of that Act construed as a whole.

Respectfully submitted,

GEORGE B. PORTER,
ANDREW G. HALEY,
CHARLES E. THOMPSON,
Counsel for First Iowa Hydro-Electric Cooperative, Petitioner.

DAVID W. ROBINSON, JR.,
Columbia, South Carolina.

RALPH U. THOMPSON,
Muscatine, Iowa.

JOHN CONNOLLY, JR.,
Des Moines, Iowa.

Of Counsel for Petitioner.

March 6, 1946.

APPENDIX A.

CHAPTER 364, IOWA CODE, 1939.

WATER-POWER IMPROVEMENTS.

7797 Eminent domain
7798 Use of highways
7799 Public lands
7800 Powers Generally
7801 Completion of Work
7802 Legislative Control

7797 EMINENT DOMAIN. Any person, or any corporation organized for the purpose of utilizing and improving any water power within this state, or in the streams lying upon the borders thereof, may take and hold so much real estate as may be necessary for the location, construction, and convenient use of its canals, conduits, mains, and waterways, or other means employed in the utilization of such water power, and for the construction of such buildings and their appurtenances as may be required for the purposes aforesaid. Such person or corporation may also take, remove, and use, for the construction and repair of its said canals, waterways, buildings, and appurtenances, any earth, gravel, stone, timber or other materials on or from the land so taken. Compensation shall be made for the lands and materials so taken and used by such person or corporation, to the owner, in the manner provided for taking private property for works of internal improvement. (C73, § 1236; C97, § 1990; C24, 27, 31, 35, § 7797). Condemnation proceedings, ch. 366.

7798 USE OF HIGHWAYS. Such person or corporation may use, raise, or lower any road for the purpose of having its said canals, waterways, mains, and pipes pass over, along, or under the same, and in such case shall put such road, as soon as may be, in good repair and condition for the safe and convenient use of the public. Any such person or corporation may construct and carry its canals, conduits, waterways, mains, or water pipes across, over, or under any railway, canal, stream, or watercourse, when it shall be necessary for the construction or operation of the

same, but shall do so in such manner as not to impede the travel, transportation, or navigation upon, or other proper use of, such railway, canal, or stream. The powers conferred in this section can only be exercised in cities and towns with the consent and under the control of the council. (C73, § 1237; C97, §1991; C24, 27, 31, 35 § 7798).

7799 PUBLIC LANDS. Such person or corporation is authorized to pass over, occupy, and enjoy any of the school, university, and saline or other lands of this state, whereof the fee or any use, easement, or servitude therein is in the public, making compensation therefor. No more of such land shall be taken than is required for its necessary use and convenience. (C73, § 1238; C97, § 1992; C24, 27, 31, 35, § 7799).

7800 POWERS GENERALLY. Such corporation, in addition to other powers, shall have the following: To borrow money for the purpose of constructing, renewing, or repairing its works; to make, execute, and deliver contracts, bonds, notes, bills, mortgages, deeds of trust, and other conveyance charging or incumbering its property, including its franchises, or any part or parcel thereof; to erect, maintain, and operate canals, conduits, mains, waterways, mills, factories, and other buildings and machinery, including waterways, sluices, and conduits for the purpose of carrying waste water off from said premises to the stream from which the same was taken, or other convenient place; to let, lease, or sell and convey any portion of their water supply, and any of the buildings, mills, or factories, or machinery, for such sums, prices, rents, tolls, and rates as shall be agreed upon between the parties; and to lay down, maintain, and operate such water mains, conduits, leads, and service pipes as shall be necessary to supply any building, village, town, or city with water; and the grantee of any such person or corporation, or purchaser of said property, franchise, right and privileges under and by virtue of any judicial sale, shall take and hold the same as fully as the same were held and enjoyed by such person or

corporation. (C73, § 1239; C97, § 1993; C24, 27, 31, 35, § 7800).

7801 COMPLETION OF WORK. Such person or corporation shall take, hold and enjoy the privilege of utilizing and improving the water power and the rights, powers, and privileges aforesaid, and shall proceed in good faith to make the improvements and employ the powers above conferred, and shall, within two years from the date of acquiring such powers, provide the necessary capital, complete the preliminary surveys, and actually commence the work of improving and utilizing the water power and furnishing the supply of water as contemplated; and said waterworks and canals shall be completed within five years thereafter. (C73, § 1240; C97, § 1994; C24, 27, 31, 35, § 7801). C97, § 1994, editorially divided.

7802 LEGISLATIVE CONTROL. The rights, powers, and privileges conferred by this chapter shall be at all times subject to legislative control. (C73, § 1240; C97, § 1994; C24, 27, 31, 35, § 7802).

APPENDIX B.

PUBLIC UTILITY ACT OF 1935

(Mr. Wheeler, from the Committee on Interstate Commerce, submitted the following report (to accompany S. 2796))

* * * * *

Section 210

This section also amends the second paragraph of section 23, dealing with the filing of declarations of intention, and makes this paragraph subsection (b) of the section. Under the present provision anyone intending to undertake a project on a nonnavigable tributary of a navigable stream may in his discretion file such declaration with the Commission. If the Commission finds that the interests of interstate commerce would be affected by the project, it is made unlawful to proceed without having secured a license. This provision is changed to make the filing of a declaration of

intention mandatory in such cases. Furthermore, a provision is inserted expressly making it unlawful to construct a project on any navigable waters without a license granted pursuant to the act. This latter provision is in substance the effect of the River and Harbor Act of 1899 when read with the Water Power Act. It is thought desirable to bring together in a single act the positive requirements regarding the construction of water-power projects. Under this subsection, with the two amendments here made, every person intending to construct a project which might conceivably affect any navigable waters would be under the duty of coming to the Commission. The act would be greatly strengthened by enabling the Commission to preserve control over all projects with which the Federal Government has any valid concern.

* * * * *

(Senate Report No. 621—Calendar No. 651—74th Congress, 1st Session).

APPENDIX C.

PUBLIC UTILITY ACT OF 1935

(Mr. Rayburn, from the Committee on Interstate and Foreign Commerce, submitted the following report (to accompany S. 2796))

* * * * *

Section 210

Section 23 is amended to make the same change in the provision for the determination of the value of a project constructed prior to the adoption of the act and voluntarily brought under license that is introduced in section 14 by section 207 of the bill. The present provision for determination by agreement or court proceeding is replaced by a provision that the determination shall be made by the Commission. The second paragraph of section 23, here lettered subsection (b), is also amended by expressly making unlawful the construction of any dam, water conduit, reservoir, or power house in any of the navigable waters of the United States, or upon any of the public lands or reservations in the United States, except pursuant to a permit granted prior to June 10, 1920, or a license granted pursuant to the act.

This provision is in substance the present result under the River and Harbor Act of 1899 and the Water Power Act. Furthermore, the provision making discretionary the filing of applications for preliminary permits for the construction of projects in the nonnavigable tributaries of navigable streams is changed to make such applications mandatory. In this way, every person intending to construct a project which might affect navigation would be required to come to the Commission for a determination of the interests of the United States. This would greatly strengthen the act by enabling the Commission to maintain control over all projects with which the Federal Government has any valid concern. The bill as reported is narrower than that originally introduced in that the prohibition against the construction of a 'dam, water conduit, reservoir, power house, or other works' in the original is changed so as to have 'other works' limited to works incidental to the foregoing enumerated works. The provision included in the Senate bill relating to rights granted to States under the Boulder Canyon Act and other Government dams have not been included by the committee.

* * * * *

(House of Representatives Report No. 1318, 74th Congress, 1st Session.)

APPENDIX D.

DEVELOPMENT OF WATER POWER

(Mr. Jones of Washington, from the Committee on Commerce, submitted the following report (to accompany H. R. 3184))

* * * * *

It is unnecessary to point out the need for or the beneficent results to come from water power development. It means a saving of coal, and a lower price for that used; a saving of oil, and a lower price for that consumed; more efficient transportation, and lower cost of service; the development of new industries; the building up of new communities; the creation of new property values, subject to taxation for the support and maintenance of local and State governments; and added employment for labor and increased markets for agricultural products. Every year that

our water powers are undeveloped means a loss to the people in one form or another, almost, if not quite, equal to the cost of their development. Legislative action should be delayed no longer. We should do one of two things: We should pass legislation which will lead private capital and enterprise to develop these resources under such regulations as will give consumers good service and cheap power, or the Government itself should proceed to make this development. This bill proceeds on the theory of private development with ultimate public ownership possible. The House report is made a part of this report and, following it, the bill as recommended by the committee

* * * * *

(Senate Report No. 180, Calendar No. 155, 66tn Congress, 1st Session.)